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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/563,895	03/15/2006	Bodo W. Lambertz	DD-XTS-25043	7202
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Olson & Cepuritis, LTD. 20 NORTH WACKER DRIVE 36TH FLOOR CHICAGO, IL 60606			EXAMINER HOEY, ALISSA L	
			ART UNIT	PAPER NUMBER
			3765	
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			01/23/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/563,895

Applicant(s)

LAMBERTZ, BODO W.

Examiner

Alissa L. Hoey

Art Unit

3765

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 November 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Response to Amendment***

This is in response to amendment received on 11/09/07. Claims 1, 2, 12-15 6-22 are newly added. Claims 1-22 are examined below. Further, drawing amendments were submitted and are accepted for examination.

***Drawings***

1. The drawings were received on 11/09/07. These drawings are acceptable for examination.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Ogden (US 5,708,985).

Ogden teaches the following:

1. (Currently Amended) A sock, in particular for the use with sports activities, that is padded in the treading area and comprises pads (52, 56) in the inner and outer areas of the balls of the foot, in the area of the heel, as well as in the outer instep, and that has intermediate spaces (44, 50) between the pads (52, 56) and that the pads (52, 56) are made of fabric and are constructed and arranged to optimally adapt to the load profile of the foot (see figure 5).

2. (Currently Amended) A sock as in claim 1, wherein there is a pad (52) on the

ball of the foot in the area of the inner and outer ball, the fabric of which is dissimilar in structure to the fabric of the other pads (see figure 5, identifiers 52 are dissimilar in structure to the other pads).

3. (Previously Presented) A sock as in Claim 2, wherein there the pad (52) on the ball of the foot is made up of multiple sections (see figure 5).

4. A sickles-shaped toe pad (5) arranged in the area of the toes.

5. (Previously Presented) A sock as in Claim 2, wherein there is a sickle-shaped toe pad (56) arranged in the area of the toes (see pads 56 in figure 5).

6. (Previously Presented) A sock as in Claim 3, wherein there is a sickle-shaped toe pad (56) arranged in the area of the toes (see pads 56 in figure 5).

7. (Previously Presented) A sock as in Claim 4, wherein the toe pads (56) are made up of multiple individual pads (51 through 55).

8. (Previously Presented) A sock as in Claim 7, wherein the fabric of the individual pads (56) is dissimilar in structure (see pads 56 in comparison to pads 52: figure 5).

9. (Previously Presented) A sock as in Claim 1, wherein the pads (52, 56) have varying degrees of firmness, due to the different sizes and shapes.

10. (Previously Presented) A sock as in Claim 4, wherein the pads (52, 56) have varying degrees of firmness, due to the different sizes and shapes.

11. (Previously Presented) A sock as in Claim 5, wherein the pads (52, 56) have varying degrees of firmness, due to the different sizes and shapes.

12. (Currently Amended) A sock as in claim 1, wherein at least one side climate conduit (22, 44, 50) is provided that leads into at least one of the intermediate spaces (44, 50) on the treading area (1) created between the separate pads (2 through (see figures 1-5).

13. (Currently Amended) A sock as in claim 4, wherein at least one side climate conduit (22, 44, 50) is provided that leads into at least one of the intermediate spaces (44, 50) on the treading area (1) created between the separate pads (see figures 1-5).

14. (Currently Amended) A sock as in claim 5, wherein at least one side climate conduit (22, 44, 50) is provided that leads into at least one of the intermediate spaces (44, 50) on the treading area (1) created between the separate pads (see figures 1-5)

15. (Currently Amended) A sock as in claim 10, wherein at least one side climate conduit (22, 44, 50) is provided that leads into at least one of the intermediate spaces (44, 50) on the treading area (1) created between the separate pads (see figures 1-5).

16. (New) A sock, in particular for the use with sports activities, that is padded in the treading area and comprises pads (36, 56, 52) in the inner and outer areas of the balls of the foot, in the area of the heel, as well as in the outer instep, and that has intermediate spaces (44, 50) between the pads (36, 56, 52) ,wherein toe pad (5) is located in the area of the toes and is sickle - shaped and that the pads (56) are made of fabric and at least one side climate conduit (22, 44, 50) is provided that leads into one intermediate space (44, 50) on the treading area created between the separated pads (figure 5).

17. (New) A sock as in claim 16, wherein there is a pad on the ball of the foot

(52) in the area of the inner and outer ball, the fabric of which is dissimilar in structure (see figure 5).

18. (New) A sock as in Claim 16, wherein the toe pads (56) that are made up of multiple individual pads (see figure 5).

19. (New) A sock as in Claim 16, wherein there is a sickle-shaped toe pad (56) arranged in the area of the toes (figure 5).

20. (New) A sock as in Claim 16, wherein the pads (36, 52, 56) have varying degrees of firmness, due to their different shapes and sizes.

21. (New) A sock as in Claim 19, wherein the pads (36, 52, 56) have varying degrees of firmness, due to their different shapes and sizes.

22. (New) A sock as in Claim 17, wherein the pads (36, 52, 56) have varying degrees of firmness, due to their different shapes and sizes.

### ***Response to Arguments***

4. Applicant's arguments with respect to claims 1-22 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alissa L. Hoey whose telephone number is (571) 272-4985. The examiner can normally be reached on M-F (8:00-5:30) Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Welch can be reached on (571) 272-4996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ALH

/Alissa L. Hoey/  
Primary Examiner, Art Unit 3765